

MINUTES – OCTOBER 18, 2004

The Caswell County Board of Commissioners met in regular session at the Historic Courthouse in Yanceyville, North Carolina at 6:30 p.m. on Monday, October 18, 2004. Members present: Mel O. Battle, Chairman, Larry G. Hamlett, Vice-Chairman, Nathaniel Hall, Jack W. Hooper, Cathy W. Lucas, Kenneth D. Travis, and George W. Ward, Jr. Also present: Jeffrey H. Earp, County Manager, Robert V. Shaver, Jr., County Attorney, Gordon Bendall representing The Caswell Messenger, and Lauren Chesnut representing The Danville Register & Bee. Wanda P. Smith, Clerk to the Board, recorded the minutes.

MOMENT OF SILENT PRAYER

Chairman Battle opened the meeting with a Moment of Silent Prayer.

APPROVAL OF AGENDA

Commissioner Travis moved, seconded by Commissioner Hamlett to approve the agenda as presented. The motion carried unanimously.

APPROVAL OF CONSENT AGENDA

Commissioner Hamlett moved, seconded by Commissioner Travis to approve the Consent Agenda as presented.

Commissioner Lucas requested an explanation of Budget Amendment No. 6. Mr. Jeff Earp, County Manager, explained the individual items in Budget Amendment No. 6. Chairman Battle questioned a donation of \$800 to EMS/Training and asked if this training would have taken place if the donation had not been received. Mr. Earp answered that he was not sure if the training would have taken place and was probably some extra training that was not required.

Upon a vote of the motion, the motion carried unanimously.

The following items were included on the Consent Agenda:

- 1) Approval of Minutes of September 20, 2004 Meeting
- 2) Monthly Tax Report for September, 2004

Total Amount of Taxes Collected	\$1,442,370.74
Tax Maps/Tax Cards	\$ 129.75
County Maps	\$ 47.40
Beer License	\$ 10.00
Wine License	\$ 25.00
NSF Charge	\$ 61.60

- 3) Monthly EMS Billing Report for September, 2004
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|-------------------------------------|--------------|
| Total Billed | \$ 35,211.00 |
| Total Collected | \$ 21,026.39 |
| Total Claims Filed with Medicare | 77 |
| Total Claims Filed with Medicaid | 12 |
| Total Adjustments Private Pay | \$ 330.00 |
| Total Adjustments Medicare/Medicaid | \$ 5,966.76 |
- 4) Budget Amendment No. 3 – DSS
- 5) Budget Amendment No. 4- DSS
- 6) Budget Amendment No. 5 – Health Department
- 7) Budget Amendment No. 6

PUBLIC COMMENTS

Chairman Battle opened the floor for public comments.

Ms. Connie Steadman of 6100 Badgett Sisters Parkway, Yanceyville, came before the Board and stated that she was present to address a zoning issue for construction of a cemetery. Ms. Steadman added that it is her understanding that Graves Chapel Church has purchased 13 acres of land which is located parallel to her home. Ms. Steadman noted that three of her neighbors are also present and they are all opposed to the construction of this cemetery. Ms. Steadman report that she has talked to a number of agencies and has been informed that there is no zoning per se, and the only information she has received is that the cemetery would need to be 50 feet from a well. Ms. Steadman stated that they are concerned about this because they all have wells and are concerned about surface water and other guidelines pertaining to burials. Ms. Steadman noted that she spoke to the Chairman of the Deacon Board concerning this issue and he told her he would speak to the other members, but it has been eight weeks and she still has not been contacted. Ms. Steadman added that they have no protection and she is asking that the Board look into this and set some type of zoning and at least put the church project on hold until they have looked into it. Chairman Battle clarified that Caswell County does not have zoning and the Planning Board is in the process of working on it now and as it stands now, the only safeguard is an environmental issue. Commissioner Lucas stated that she has read the General Statutes and there are specific guidelines that have to be adhered to concerning cemetery construction.

Mr. Witcher Turner came before the Board and stated that he was present to represent Pelham Methodist Church and the Pelham Community Center on the subject of the property that Caswell County owns and is located between Pelham Methodist Church and its cemetery, about ten residential homes, and the Pelham Community Center. Mr. Turner reported that the subject of P&D Auto offering to buy this County property a couple of weeks ago came to the attention of the Church on a Sunday morning. Mr. Turner stated that it is the view of the Church and the Community Center that selling this

land to P&D Auto would absolutely be the wrong thing to do. Mr. Turner added that the land has been for sale as industrial property for a long time, but it is their opinion that no matter what kind of industrial development would locate on this property, it would be bad for Pelham. Mr. Turner noted that a letter had been written to the Board to address this issue in a quieter manner. Mr. Turner reported that Pelham Church has been there since 1870, has over 100 members, and is very active. Mr. Turner stated that they have considered purchasing approximately an acre to ensure that their cemetery would be adequate for the future.

Mr. Turner gave a brief history of Pelham Community Center and its origin. Mr. Turner informed the Board that in 1980 the people of the Pelham community saw a need for a public building for community events and entertainment and they developed a plan. Mr. Turner added that Mr. Paul Fitzgerald, Jr. donated the land for the Community Center. Mr. Turner stated that since its beginning the facility has accommodated a group of senior citizens in the Pelham area that meets there twice a week and congregate meals are served there. Mr. Turner informed the Board that the Community Center also has a lighted athletic field. Mr. Turner stated that the County's property located next to this offers all kinds of opportunities for parks and recreation. Mr. Turner added that he hoped that the Board would give this issue their careful consideration.

Mr. Charles Burke came before the Board and stated that he is present to address the same issue as Mr. Turner. Mr. Burke added that there exists a good deal of concern on the part of many people as to what becomes of this County property located next to the Pelham Church and Community Center. Mr. Burke stated that considering how the County came to own this property, it is only natural that the residents of this area to want what is best for this property as it applies to its original intended purpose. Mr. Burke added that this 20 acres and even the site of the former Pelham Elementary School should be used for the development and betterment of their area. Mr. Burke noted that they did not bargain for a junkyard. Mr. Burke stated that since about two years ago the idea of using this property for a park has been the most popular by the people of Pelham. Mr. Burke added that a side benefit to making this property a park would be that it could and should help the marketability of the Pelham Industrial Park. Mr. Burke stated that the County's Recreation Director is currently looking into grant funding for this purpose. Mr. Burke added that this property is very visible to the proposed I-785 highway and considering some of the undesirable developments that have transpired in this highly traveled area, he felt compelled to point out that this property is within the sight of one, if not the very best, Welcome Centers in the State of North Carolina. Mr. Burke stated that he has known that Pelham has great potential which caused him to move here in 1980 and has worked to help it grow. Mr. Burke added that he volunteered his services to the Economic Development Board and served as its Chairman. Mr. Burke stated that he wants very much for something better to come of what is the geographic center of Pelham. Mr. Burke added that as a dedicated citizen of Caswell County, he is appealing to the Board to do its part in helping them live up to their best potential. Mr. Burke noted that others also have a large vested interest in bringing about the most desirable result and are preparing in the near future, if necessary, to make their case to the Board. Mr. Burke requested that the Board grant them every consideration. Mr. Burke added that

awareness about other pertinent issues regarding this property have begun to surface and felt confident that if there is a willingness by the Board to keep them apprised of issues they are considering, they can arrive at a conclusion that is in the best interest of all.

Ms. Cyril Sellers, Marketing Director for First Piedmont Corporation, came before the Board and read and submitted the following concerns from First Piedmont Corporation:

Concerns for FPC:

1. First Piedmont stands by the numbers that were given to each of you in a letter dated August 11, 2004 in which we stated that:

First Piedmont is \$22,169.88 higher the first year of the contract.

First Piedmont is \$7,815.72 higher during each of the second/third years

First Piedmont equipment advantage is \$28,000.00.

Over the three years of the contract, First Piedmont is \$9,801.32 higher than Waste Industries. This represents .0079% higher over Waste Industries on a \$1.2 Million dollar contract.

2. In the 2001 bid, First Piedmont was 2.2% or approximately 3,591 annually, higher than that of our competitor's. (Republic Environmental) The County elected to stay with First Piedmont. (See the letter dated May 1, 2001 from Jeff Rudd to the Board of Commissioners.) The difference in the 2001 bid was actually higher than the 2004 bid with First Piedmont being higher in both cases. Why wouldn't the Board feel comfortable making the same decision in 2004 as was done in 2001 and support the locally owned incumbent who has been an excellent supporting member of our community?????
3. Waste Industries has given the Board several figures representing their savings over First Piedmont. First it was \$164,000 over the course of the three-year contract (letter dated September 7, 2004 from Mike Ingle with Waste Industries). Then they changed their number to \$113,354.07 in a spreadsheet sent to you just last week from Mike Ingle with Waste Industries. When you carefully review this spreadsheet, you will see that Waste Industries has even used the wrong disposal rate at the Waste Management Transfer Station. It is an old disposal rate and not the current one being charged. Some hauling rates are listed wrong on their spreadsheet too. So what's the next number that they are going to be sending to the Board? It would appear that they are not being totally accurate in the numbers that they are presenting to the Board.
4. Response to RFP:

After all the bids were opened, Waste Industries was allowed to submit the following additional information in a letter dated June 1, 2004 to Earp:

* **Fuel surcharge schedule for increases** – the numbers were better than First Piedmont's numbers, which were included with the original RFP request.

* **Consumer Price Index Adjustments** – Waste Industries included a statement in their RFP response about the cost of living increases. However, in the June 1, 2004 letter from W. I., they capped their increases at 5%. This is the same cap as the FPC number in their original RFP request.

* **Equipment Rental Rates** – Waste Industries did not include any rental rates in their RFP response. However, in the June 1 letter

from W. I., they submitted the rental rates that were just \$5.00 each more per month for open-tops and packer/receiver containers.

*** Free Equipment** – Waste Industries did not include any free equipment in their RFP response. Free equipment was included after the bids were opened.

Again, these were the rates presented to the County by Waste Industries ---- only after Waste Industries had been given the opportunity to review First Piedmont's actual RFP response.

5. The procedure of the actual bid award. (See the minutes enclosed.)

In the 2001 bid, First Piedmont was awarded the business on June 4, 2001 and the actual contract wasn't approved until August 20, 2001. The contract wasn't signed until August 21, 2001.

In the RFP from 1996, First Piedmont was awarded the business on June 27, 1996 and the approval on the contract wasn't done until August 19, 1996. The new rates were effective July 15, 1996. The contract was signed August 19, 1996.

It would appear that the County has set a precedent on how it handles the award of trash contracts in the past and to not proceed with First Piedmont on the contract that was most recently awarded to First Piedmont would put the County in a precarious position.

We would ask the Board to continue on the road of working with FPC and allow us to provide solid waste services to the County. FPC has made monetary and personnel commitments based on your vote on August 16, 2004. Thank you for your time.

Mr. George Daniel came before the Board and stated that he came before the Board several weeks ago and spoke on behalf of First Piedmont Corporation. Mr. Daniel informed the Board that he served them several years ago in the State Senate and that was the only year that a Resolution was passed to have a vote in this County not to have a landfill sited in the Pelham area. Mr. Daniel stated that he has knowledge of how First Piedmont has been a good neighbor to Caswell County and also their principal, Mr. Ben Davenport, who has been very instrumental in taking a part in County functions and appeared before the Board concerning the broadband internet. Mr. Daniel noted that as he has said before, less does not mean more or better. Mr. Daniel referred to a Local Government Bulletin which posed the question, "Can a local government rescind its award of a contract under North Carolina formal bidding statute?" Mr. Daniel stated it is interesting that North Carolina does not necessarily have any cases on point in this situation. Mr. Daniel added that it seems with all the public contracts that are let in this State, there would be more case law and wondered why all the counties and municipalities in North Carolina have not encountered this situation before. Mr. Daniel stated that in adhering to the General Statute, an RFP goes out and when a proposal is submitted and that proposal is accepted, that is the beginning of a contractual obligation. Mr. Daniel that NCGS 143-29 speaks to several things, but does not address the purchase of services. Mr. Daniel stated that when the Board advertises for RFP's and then examines the bids received, they determine in their discretion what is in the best interest

of this County as they are stewards of the taxpayers' money. Mr. Daniel added that in examining the bids, the Board also considers what kind of provider they had when that provider is submitting a bid to stay in a contract. Mr. Daniel asked that the Board review the document he is referring to with their Counsel because the Board is considering a \$1.2 million contract. Mr. Daniel stated that the Board's first inclination was right, which was their formal inclination in going with First Piedmont Corporation. Mr. Daniel added that when the Board continues to reflect and think, then the next thing is when the lawyers come in and the courts come in and the County will be spending a large amount of money fighting over a \$1.2 million contract. Mr. Daniel stated that it is not to this point yet, and suggested that the Board is within its authority and discretion. Mr. Daniel added that he knew in the Board's wisdom and judgment it would do the right thing. Mr. Daniel asked that the Board consider very strongly often times that your first instinct, your formal instinct in granting this contract to First Piedmont was the right instinct.

REQUEST FROM TOWN OF YANCEYVILLE

Mr. Jeff Earp, County Manager, reported that within the Yanceyville Town limits, there is a mobile home park known as Suburban Mobile Home Park located on NC Hwy 86N. Mr. Earp stated that the Caswell County Health Department has cited this mobile home park for a failing septic system and without some help, this park will be shut down. Mr. Earp added that the Town of Yanceyville has asked for the County's assistance in making application for a North Carolina Department of Community Assistance grant. Mr. Earp noted that the Town of Yanceyville first tried without success in acquiring a grant from the Rural Center. Mr. Earp reported that at the present time the Town of Yanceyville has made application for a grant from the North Carolina Department of Community Assistance for sewer improvements on Church and First Streets, and they are ineligible for an additional application during this funding cycle. Mr. Earp stated that the Town of Yanceyville is asking the County to make application with them for this grant. Mr. Earp added that the County would be the applicant and the Town would administer, construct, maintain, and own the extended sewer line.

Chairman Battle questioned why the Town would be making application for sewer improvements and not include water. Mr. Earp stated that the sewer lines have been condemned and that is the immediate need and added that water would be a separate application. Chairman Battle questioned the financial impact on the residents involved. Mr. Earp answered that if paid for by grant funds, the residents would pay their normal rate. Chairman Battle asked if this would be a profit making project for the Town of Yanceyville. Mr. Earp confirmed that this it would be a profit making project for the Town.

Commissioner Lucas stated that it was her understanding that when the Town of Yanceyville annexed that land into the boundaries of its Town limits, they were supposed to be in a position to provide the services to the area which they annexed. Commissioner Lucas questioned the funding cycle for the Town's projects. Mr. Earp answered that the funding cycles for the federal government normally runs from October to October and the grant funds should be available in the Spring or Fall of the year. Commissioner Lucas

stated that she has a problem with the fact that the County applies for the grant funding and then allow the Town of Yanceyville to administer it, maintain it, ultimately own it, and receive revenues from it. Commissioner Lucas added that her position would be that the County maintain ownership, receive the revenue from the line, and let the Town pay the County for the service. Mr. Earp stated that he would always agree that once a line is run outside the Town of Yanceyville, the County should consider retaining ownership, but in this case it is within the Town's jurisdiction and would not agree that the County should hold ownership.

Commissioner Lucas stated that the Town of Yanceyville just purchased a building facility for \$156,000 and this is a consideration for her because she felt they should deal with their sewer problems before they purchase a building that they do not need. Commissioner Lucas added that she is not against applying for the grant for the Town, but felt that by all means the County should retain ownership of the line.

Chairman Battle asked for clarification that if the County did not apply for funding, the Town would have to wait until the next funding cycle to apply. Mr. Earp confirmed that it is correct that the Town would have to wait until the next funding cycle to apply for grant funding. Mr. Earp noted that the urgency is that the residents in the mobile home park would be displaced.

Commissioner Lucas requested that the County Manager find out how long the Town has been aware of the sewer problems at the Suburban Mobile Home Park and the owner of the park.

Chairman Battle questioned the timeframe involved in this project and Mr. Earp answered that action needed to be taken rather quickly because there is only a small portion of funds left in this year's cycle.

After discussion, Commissioner Lucas moved, seconded by Chairman Battle that the County apply for grant funding for the sewer project at Suburban Mobile Home Park, contingent upon finding out how long the Town of Yanceyville has been aware of these problems, determining ownership of this property, and with the County retaining ownership of the line.

Commissioner Lucas stated that she would like to remove from the motion the contingency of determining ownership of the property and how long the Town has been aware of the problems.

Mr. Earp questioned whether this motion would mean that the County would be invoicing for the services. Commissioner Lucas answered that this would be correct.

Commissioner Hall stated that it seems to him that the County will have some contingent problems with the County trying to own a portion of a sewer line and billing people for it. Commissioner Hall added that he could understand the desire to maintain ownership, but to be able to bill for a section of the line and repay another entity would be another

problem. Mr. Earp questioned whether the Board would consider a lease of the sewer line to the Town of Yanceyville. Commissioner Lucas noted that this would establish ownership. Commissioner Lucas stated that it would be pertinent information to know how long the problem has existed and if it is a critical need.

After further discussion, Commissioner Lucas and Chairman Battle agreed to withdraw their motion.

Commissioner Lucas moved, seconded by Chairman Battle that the Board of Commissioners discuss with the Town of Yanceyville the possibility of applying for grant funding for the Suburban Mobile Home Park and leasing the sewer line to the Town of Yanceyville. The motion carried by a vote of five to two with Commissioners Hamlett and Hooper voting no.

PELHAM UNITED METHODIST CHURCH

Mr. Jeff Earp, County Manager, provided the Board with a written request from Mr. Witcher Turner, Chairman, Administrative Council, Pelham Methodist Church, concerning approximately 20 acres of land owned by the County which is located between the Pelham Methodist Church and the Pelham Community Center. In the letter the Church urged the Board to reject any offer from PD Auto to acquire this property and asked that the Board consider this land unsuitable for any commercial development because of its location. Mr. Earp reported that in Mr. Turner's letter he states that the Church has for some time been discussing the need to expand its cemetery and would be offering to buy an acre or so of this property. Mr. Earp noted that the letter further states that the Church would urge that the County designate the remaining acreage for Parks and Recreation development.

Commissioner Ward stated that he would like to have the Building and Grounds Committee review this and present a recommendation to the Board as to the use of this property, place a value on the property, and the possibility of turning over to the Recreation Department. Commissioner Ward added that he was aware of two grants, one from the NC Department Park and Recreation Trust Fund and the NC Department of Environmental and Natural Resources whereby a non-profit organization can apply for grant funding to purchase land. Mr. Earp clarified that if the County owns the land and decides to put a park there or extends its recreational services, it could pursue grant funding as a 21st Century County with possibly no match. Mr. Earp added that if another entity such as the Church or Community Center owned the land, it could, as a non-profit organization, pursue grant funding, but this would require a match.

Commissioner Hall questioned the status of the land that is being discussed. Mr. Earp answered that Caswell County owns the land, it has been on the market for several years, and continues to be on the market for economic development. Commissioner Hall asked if an offer has been made on the land. Mr. Earp answered that an offer was made and it was withdrawn, and at this point the County does not have an offer. Mr. Earp added that he was told when the offer was taken off of the table, that it was removed due to the offer

being proposed for discussion in Open Session and business information contained in the offer. Mr. Earp stated that he was told that there may be some restructuring of the offer to be brought back before the Board for its consideration.

Commissioner Lucas stated that when she obtained a copy of the deed of the property, she became aware that there are a number of restrictions on the property. Commissioner Lucas questioned whether, in the interim, to add protection to the property, if they could add an amendment or restriction to prohibit a junkyard or expansion of a junkyard since the County does not have any land use planning or zoning in the County. Commissioner Lucas stated that there are some federal government guidelines in place that prohibit the location of a junkyard on a US highway. Commissioner Lucas stated that she felt the Board should consider immediately making some changes or amendments to include this restriction in the deed.

After further discussion, Commissioner Ward moved, seconded by Chairman Battle to refer this issue to the Building and Grounds Committee, to incorporate Commissioner Lucas' recommendations, and the Committee to come back with a recommendation at the Board's next meeting to include criteria such as purchase price, if it is to be sold, and recommended use of the land.

Commissioner Hall stated that there are two different churches at two different ends of the County with two different issues that are basically the same in that it relates to zoning. Commissioner Hall added as a member of the Building and Grounds Committee that he would be hard pressed to support or recommend any type of additional stipulations because the Board is reacting to issues instead of planning for issues. Commissioner Hall stated that many of them are disappointed because zoning did not go the way they thought it would go, but felt that they still needed to be subjective in addressing these types of issues. Commissioner Lucas stated that she takes issue with this comment because in the interim they are open for any kind of undesirable situation to come into the County and by placing a further deed restriction on this property, it would be of great benefit.

Upon a vote of the motion, the motion carried by a vote of five to two with Commissioners Hooper and Travis voting no.

UPDATE FROM BUILDING AND GROUNDS COMMITTEE

Commissioner Hall reported that the Building and Grounds Committee met to consider and make recommendations on the requests by Piedmont Community College for assistance in construction of a building and the Board of Education for funds to make repairs to schools throughout the County. Commissioner Hall stated that the Committee met, deliberated, and agreed to recommend to the Board that they support fifty percent of the request from Piedmont Community College which would amount to \$175,000 and that they move forward on repairs to the Schools' roofs as requested, estimated at \$200,000 and to obtain a complete list of the costs of the other needs of the Board of Education and that the two Boards work together to develop a plan for financing these

needs. Commissioner Hall added that it would be the Committee's recommendation to fund these requests from Fund Balance.

Commissioner Lucas questioned whether the Building and Grounds Committee considered her request to secure funding for all of the Schools' repairs in the amount of \$750,000 as presented by the Superintendent with repayment coming from ADM funds. Commissioner Hall stated that the Committee felt that they should deal with the immediate repairs needed and the two Boards meet at a later date to find a way to finance the remaining needs. Commissioner Lucas asked if any of the members of the Building and Grounds Committee met with any of the contractors on the PCC Expansion Project and Commissioner Hall answered that they did not.

After discussion, Commissioner Ward moved, seconded by Commissioner Hooper to approve the repairs to the Ninth Grade Building Roof, Ninth Grade Building ceiling tile replacement, the repairs to the Civic Center Roof, to re-roof the Administration Building and to approve an appropriation of \$175,000 for the expansion of Piedmont Community College, to be funded from Fund Balance.

Commissioner Lucas questioned the status of Fund Balance. It was determined that after this expenditure the County's Fund Balance would be approximately \$1.9 million. Upon questioning from Commissioner Lucas, Mr. Earp answered that the percentage of Fund Balance would then be at nine to nine and one-half percent. Commissioner Lucas noted that this percentage is getting dangerously close to the State's recommended Fund Balance percentage of eight percent.

Upon a vote of the motion, the motion carried by a vote of five to two with Commissioners Hamlett and Lucas voting no.

SOLID WASTE CONTRACT

Mr. Robert V. Shaver, Jr., County Attorney, stated that at the Board's last meeting he informed them that they did not have a contract with either of the entities, Waste Industries or First Piedmont Corporation at this time. Mr. Shaver added that the Board deferred any action on the Solid Waste Contract until this meeting. Mr. Shaver stated that in the interim, his position has not changed and after consulting the Institute of Government and other City and County Attorneys he continues to believe that this position is correct. Mr. Shaver referred to the comments made by Mr. George Daniel in referencing the Local Government Bulletin and that it did not address service contracts. Mr. Shaver informed the Board that the reason it does not address service contracts is because service contracts are not subject to the State's Statutes on competitive bidding. Mr. Shaver added that this Solid Waste Contract is not subject to competitive bidding and it is the Board's decision and action to use an RFP procedure to obtain information to guide it in its decision for choice of who to enter into a solid waste contract with. Mr. Shaver stated that comments were made earlier concerning the award of a contract with an entity that is not the lowest bidder and noted that he has never stated anything to the contrary. Mr. Shaver added that the Board does have the discretion to decide that the

lowest bid is not in the best interest of the County and may choose another bid if it so desires.

Mr. Shaver stated that the question is what procedure the Board follows in adopting and approving a contract of this nature and has that process been completed in this situation. Mr. Shaver added that it has not and the minutes of the Board of Commissioners' in 1996 and 2001 when it awarded the Solid Waste Contract support this.

Mr. Shaver stated that his position remains the same that the Board is not in a contract with either entity at this point and may move to proceed with either or in such fashion that it deems in the best interest of the County for entering into a Solid Waste Contract.

Commissioner Lucas stated that the Board should not have had a contract from Waste Industries brought before them based on a consensus vote. Commissioner Lucas added that the Waste Industries contract was brought before them for approval based on a consensus vote during a budget workshop and not a formal vote. Commissioner Lucas stated that the Board needed to stand by its August 16, 2004 vote which was a formal vote with a motion being made to award the contract to First Piedmont Corporation. Commissioner Lucas added that when the vote was taken that night she was committed to that decision and wished that the Board would abide by that vote. Commissioner Lucas stated in her four years on the Board, she has never known them to go back and forth on a vote that has already been cast. Commissioner Lucas added that in discussing procedure, the procedure is to review the bids, award the bid, and adopt the contract and she thought that this is what they have done. Mr. Shaver noted that this is true except that the Board did not have a contract before them at its August 16, 2004 meeting. Mr. Shaver added that the fact is that the Board had the written contract before them at the next meeting and did not vote to approve it. Commissioner Lucas stated that the discussion that night was just based on the terminology that was going in that contract.

Commissioner Hooper stated that he has been concerned by this situation over the last few weeks and it appears to him that they have not treated either Waste Industries or First Piedmont Corporation fairly. Commissioner Hooper suggested that to be fair, the project should be rebid as prescribed by the County without anything extra and above, and take the lowest bid.

Commissioner Ward stated that he did not have a problem with rebidding the process based on the fact that the numbers have changed four different times since they started. Commissioner Ward added that when he seconded Commissioner Lucas' motion on August 16, 2004, it was based on a \$30,000 figure that he thought was true over the life of the contract.

Commissioner Lucas stated that discussion of the solid waste contract occurred prior to the June budget workshop and the contract was going to be awarded then. Commissioner Lucas added that she did not recall the Board ever seeing the RFP for the project and her problem with it initially was that it did not contain anything about pickup at County buildings. Commissioner Lucas noted that this is why she was not in agreement with the

Board consensus in the June budget workshop. Commissioner Lucas added that she had requested that the County Manager include pickup at County buildings in the RFP because this equates to approximately \$9,000 - \$10,000 in savings to the County. Commissioner Lucas stated that her request at the June budget workshop was to rebid the project to include County facility pickup. Commissioner Lucas added that in reviewing the two contracts, there are several distinguishing factors with one being recycling. Commissioner Lucas noted that First Piedmont Corporation offers a recycling program and did not see any mention of recycling in the Waste Industries contract and also that First Piedmont offered additional holiday coverage. Commissioner Lucas stated that it is not always about the bottom dollar, it is about the service that is provided as well.

After further discussion, Commissioner Travis moved, seconded by Commissioner Hall that the County enter into a solid waste contract with Waste Industries.

Commissioner Lucas questioned the County Attorney as to whether the Board is at liberty to take another vote on the solid waste contract. The County Attorney answered that the Board is at liberty to adopt either of the contracts before them.

Commissioner Lucas moved, seconded by Commissioner Ward to continue services with First Piedmont Corporation as it is currently and to rebid the solid waste contract to include hauling, recycling, and County facility pickup at no charge.

Commissioner Hall stated that the Board has been told by Counsel that they did not have to bid the project at all and if it is rebid, it suggests to him that the process was flawed or something was wrong. Commissioner Hall noted that it was his understanding that the Board approved the RFP when it went out. Commissioner Hall added that they have also been told by Counsel that they do not have to take the lowest bid and it seems to him that the Board is now going through a process that is not all that necessary.

Upon a vote of the motion, the motion failed by a vote of four to three with Commissioners Battle, Hall, Hooper, and Travis voting no.

Commissioner Lucas asked the County Attorney if this means that the Board can come back at the next meeting and vote again to give the contract to First Piedmont Corporation because it seems like this is what they are able to do now with the votes they cast by changing it from one meeting to the next and it does not seem proper to her. Mr. Shaver answered that if the Board approved the contract with Waste Industries tonight, it would be executed. Mr. Shaver added that if the Board then acted later to change its mind, it would have to do so by breaking the contract and considering the consequences of doing that.

Upon a vote of the original motion, the motion failed by a vote of four to three with Commissioners Hamlett, Hooper, Lucas, and Ward voting no.

After further discussion, Chairman Battle moved, seconded by Commissioner Ward to rebid the RFP for solid waste collection for the County, to include hauling, recycling, and

County facility pickup, based upon the contention that the County continue its current services with First Piedmont Corporation, if agreeable, and that all RFP's be in by the Board's second meeting in November and a decision made at that time. The motion carried by a vote of six to one with Commissioner Travis voting no.

RECESS

The Board held a brief recess.

COUNTY MANAGER'S REPORT

Mr. Jeff Earp, County Manager, reported that he was advised by the Finance Office on September 20, 2004, that the Payroll Coordinator's computer had crashed. Mr. Earp stated that this was confirmed by the County's IT Computer/Support Technician and was told that the hard drive was no longer operable and recommended purchasing a new CPU. Mr. Earp added that he authorized an emergency purchase for a CPU in the amount of \$1,415.61. Mr. Earp informed the Board that the Finance Department did not have sufficient funds in their budget to cover the expenditure and requested that the Board appropriate \$1,415.61 from the Contingency Fund to be transferred to the Finance Department's budget for pay for the purchase. After discussion, Chairman Battle moved, seconded by Commissioner Travis to approve the transfer of \$1,415.61 from the Contingency Fund to the Finance Department to cover the emergency purchase of a computer. Commissioner Lucas questioned the balance in the Contingency Fund. Mr. Earp answered that the Contingency Fund stands as it was adopted with an amount of approximately \$40,000. Commissioner Hall asked if it is known what caused the system to crash. Mr. Earp answered that it was due to hardware failure. Commissioner Lucas asked if all the information was saved. Mr. Earp confirmed that the system is backed up every night and all of the data was saved. Upon a vote of the motion, the motion carried unanimously.

Mr. Earp informed the Board that the County has the opportunity to apply to the North Carolina Housing Finance Commission for an Urgent Repair Grant. Mr. Earp stated that the award from the grant would be up to \$75,000 to be used for emergency repairs for low income housing in Caswell County. Mr. Earp noted that there is no match required from local monies for this grant. Mr. Earp requested that the Board approve the submittal of this application for grant funding and to designate Mr. Michael Walser of Hobbs & Upchurch as the Administrator of the grant. Upon questioning from Commissioner Lucas, Mr. Earp stated that a Board would be appointed as in the past to determine criteria for eligibility. Commissioner Hall stated that in terms of administration and looking at other grants, he felt it would be advantageous for the County to develop a Housing Department to handle these types of grants. Commissioner Hall added that he was recently notified that the County had foregone approximately \$25,000 per year for the last four or five years because the County did not have a Housing Department and anyone to coordinate this. Commissioner Hall stated that he felt this is something the Board should look into to maximize these grants for the County. After discussion, Commissioner Travis moved, seconded by Commissioner Hooper to approve the

submittal of an application by Caswell County to the North Carolina Housing Finance Commission for an Urgent Repair Grant, with Mr. Michael Walser being designated as Administrator of the grant. The motion carried unanimously.

Mr. Earp stated that he would also like to ask the Board for approval to apply for the 2004 Scattered Site Housing Grant from the NC Department of Commerce in the amount of \$400,000. Mr. Earp added that Caswell County received \$400,000 in 2002. Commissioner Hall moved, seconded by Commissioner Travis to approve the submittal of an application by Caswell County to the NC Department of Commerce for the 2004 Scattered Site Housing Grant, with Mr. Michael Walser being designated as Administrator of the grant. The motion carried unanimously.

Mr. Earp reported that in May, 2004, the Board of Commissioners appropriated \$11,610.23 to repair the Library lights and a purchase order was issued to Scruggs Electric Company. Mr. Earp stated that he has been working with Mr. Scruggs for several months, but due to his inability to acquire the lights from the manufacturer, the process of installing new lighting was delayed. Mr. Earp stated that on October 5, 2004, he received an estimate of \$14,300 from Mr. Scruggs to complete this job. Mr. Earp added that Mr. Scruggs informed him that the cost of the lights had increased since he received his initial quote from the manufacturer and also discussed options on using a different type of light from another vendor. Mr. Earp noted that he contacted the original bidders and Mr. Scruggs is still competitively low. Mr. Earp reported that the Library Fund Balance as of today is in excess of \$81,000 and requested that the Board appropriate an additional \$2,689.77 so that he could proceed with correcting the lighting problem at the Library. Commissioner Hall stated that in the long term, it may be advantageous to look at some other type of lighting. After discussion, Commissioner Hooper moved, seconded by Commissioner Lucas to approve the additional appropriation of \$2,689.77 to Scruggs Electric Company to repair the lighting problems at the Library. Upon questioning from Chairman Battle, Mr. Earp answered that Mr. Scruggs could complete the job at the Library in six to seven days after receiving the lights, which should take ten days. Upon a vote of the motion, the motion carried unanimously.

Mr. Earp reported that the Federal Legislature took action this week to “buyout” the Stabilization Program Tobacco Quota from farmers. Mr. Earp stated that upon his request, the Tax Director has prepared an assessment and reported that the County will lose \$44,888.64 in revenue due to the buyout. Mr. Earp added that the County had on its books 5,847,573.275 pounds which was valued at \$1.28 per pound for a total value of \$7,481,439.328.

Mr. Earp provided the Board with the Caswell County Landfill, Second Semi-Annual 2004 Groundwater Monitoring Event Sampling Results as conducted by Dewberry & Davis.

(Commissioner Hamlett left the meeting at this time).

Mr. Earp reported that the Board has been extended an invitation from the Animal Protection Society of the Northern Piedmont to attend its Open House and Dedication on October 30, 2004, at 12:30 p.m. at the Shelter located off of Fire Tower Road. Mr. Earp added that the APS Board has made a decision to dedicate the facility in honor of Ms. Hilda Brody.

ANNOUNCEMENTS/QUESTIONS

Chairman Battle reported that recently while reading a Fayetteville newspaper, he learned that the Cumberland County Board of Commissioners was soliciting a lobbying group and The Ferguson Group was awarded the contract.

Chairman Battle informed the Board that a citizen recently approached him concerning property across from the Jail, located on Wall Street. Chairman Battle stated that he was led to believe that the Sheriff wished to acquire this property to build a Jail. Chairman Battle added that the tax value of the property is listed at \$80,000, but she would be willing to sell it for \$70,000. Chairman Battle added that the County Manager was also approached by this individual. Mr. Earp reported that he was approached by this landowner in February and the Board reviewed the proposal in March, but declined to take action at that time. Mr. Earp stated that he is in the process of corresponding with this landowner to let her know that he will keep the property in mind for economic development purposes.

Chairman Battle referred to the Incident/Investigation Reports from the Yanceyville Police Department in the agenda package and noted inaccuracies in the way it was written, which should have been corrected.

Commissioner Hooper reported that he is still getting requests that a convenience center site be located back in the Hightowers community. Commissioner Hooper stated that he has received a petition containing 300 signatures requesting that a convenience center be placed in the Hightowers community. Mr. Earp stated that he and the Solid Waste Director are in the process of reviewing current Solid Waste contracts and preparing to evaluate the convenience center contracts before they expire in December.

Commissioner Lucas reported that she was contacted by Mr. Henry Simpson of Alamance County who has been trying for several years to remove approximately 100 very large tires that have been illegally dumped on property he owns in Caswell County. Commissioner Lucas stated that she contacted the North Carolina Department of Environment and Natural Resources in Winston-Salem and was told that there is a Trust Fund in Raleigh for this purpose. Commissioner Lucas added that she was told that the County could have its current hauler, Central Carolina Holdings, remove the tires, the County would pay the invoice, then forward the invoice to Raleigh, and the County would be reimbursed for the removal of the tires.

Chairman Battle stated that concerning the situation of the graveyard that was mentioned earlier in the meeting, he felt that if a letter was written to the Pastor and Officers of the

Church informing them of what the County is currently doing as far as land use and zoning, that they would probably hold off. There was no action taken.

Mr. Robert Shaver, County Attorney, reported that the North Carolina Court of Appeals is scheduled to hear oral arguments in the case of Caswell County v. Yanceyville, et al in Raleigh, North Carolina on Wednesday, December 1, 2004, at 1:30 p.m. Mr. Shaver stated that he feels that it will be several months before a decision will be rendered.

THE ADJOURNMENT

At 9:00 p.m. Chairman Battle moved, seconded by Commissioner Travis to adjourn the meeting. The motion carried unanimously with Commissioner Hamlett absent.

Wanda P. Smith
Clerk to the Board

M. O. Battle
Chairman

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